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**REMARKS****I. INTRODUCTION**

Claims 1, 8, 11, 18, 21 and 22 have been amended. No new matter has been added. Claims 1-22 remain pending in this application. It is respectfully submitted that based on the following remarks, all of the presently pending claims are in condition for allowance.

**II. THE 35 U.S.C. § 101 REJECTIONS SHOULD BE WITHDRAWN**

Claims 1-22 stand rejected under 35 U.S.C. § 101 for reciting unpatentable subject matter. Amended claims 1 and 8 recite an "arithmetic unit," a "memory," and a "display unit" for performing certain steps of the claimed method. In addition, the independent claims (claims 1, 8, 11, 18, 21 and 22) have been amended to recite a displaying of a list of items based on the results of a calculation. Because the steps are performed on an apparatus, the claims are directed to a practical application. Furthermore, the displaying of the list constitutes a useful, tangible and concrete result. Accordingly, it is respectfully submitted that this rejection be withdrawn.

**IV. THE 35 U.S.C. § 103(a) REJECTIONS SHOULD BE WITHDRAWN**

Claims 1-22 stand under 35 U.S.C. § 103(a) as unpatentable over U.S. Pat. No. 5,758,257 to Hertz et al. ("Hertz") in view of U.S. Pat. No. 5,731,844 to Rauch et al. ("Rauch").

Claim 1 recites a method including the steps of "calculating, using an arithmetic unit of the recommending device, *an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered*, wherein the number of times the item was offered and the number of times the item was selected by the user are stored in a memory" and "generating a combined recommendation score, C, based on said recommendation score, R, and said adjustment, A."

As correctly noted by the Examiner, Hertz fails to disclose or suggest "calculating an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an

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item being selected by a user relative to the number of times the item was offered,” as recited in claim 1. (See Office Action, p. 9).

Rauch describes a selection program that provides program information to a television. The selection program obtains, from a user, a selection of a television program from a schedule layout. (See Rauch, col. 5, lines 13-18). Each time the user designates a program, the selection program increments a program counter associated with the designated program. The selection program controls the television to arrange channel entries based on an order of use from the channel entry whose program has been designated the most number of times. (*Id.* at col. 6, lines 32-42). In addition, topics from which corresponding programs may be selected are also displayed in order “based on a total number of times that the particular topic selected by the user has been selected in the past.” (*Id.* at col. 11, line 53 – col. 12, line 20).

The selection program described by Rauch only keeps a running total of the number of times the user has selected a program or topic. The total is based on a number of times each program/topic has previously been selected. The Examiner stated that it would be inherent to determine a ratio of the number of times a topic is selected and the number of times the topic is offered. (See Office Action, p. 10). However, nowhere does Rauch indicate that the selection program keeps track of a total number of times a topic is offered. Rauch only tallies the number of times the user selects a particular program/topic. A given television program may be offered at different times and certain programs are offered more frequently than others. The selection program, however, does not track how often a program/topic is offered. The ranking of programs/topics by frequency described by Rauch is based on a *frequency of selection*, not a frequency of *offering*. It is understood that by frequency, Rauch refers to a total number of times a program/topic is selected within a particular time period (e.g., from when counting is initiated to when counting stops). This is not, however, the same as a total number of times a program/topic is selected relative to a total number of times the program/topic is made available to selecting.

Based on these reasons, it is respectfully submitted that neither Hertz nor Rauch, either alone or in combination, discloses or suggests “calculating, using an arithmetic unit of the

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recommending device, an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered,” as recited in claim 1. Because claims 2-7 depend from, and, therefore include the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 8 recites “calculating, using a arithmetic unit, a recommendation score for said one or more items based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered.” Thus, it is respectfully submitted that claim 8 is allowable for at least the same reasons as claim 1. Because claims 9 and 10 depend from, and, therefore include the limitations of claim 8, it is respectfully submitted that these claims are also allowable.

Claims 11 and 21 recite a processor and a computer code to “calculate an adjustment, A, to said recommendation score, R, based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered.” Thus, it is respectfully submitted that claim 11 and 21 are allowable for at least the same reasons as claim 1. Because claims 12-17 depend from, and, therefore include the limitations of claim 11, it is respectfully submitted that these claims are also allowable.

Claims 18 and 22 recite a processor and a computer code to “calculate a recommendation score for said one or more items based on a consistency which is a ratio of an item being selected by a user relative to the number of times the item was offered.” Thus, it is respectfully submitted that claims 18 and 22 are allowable for at least the same reasons as claim 1. Because claims 19 and 20 depend from, and, therefore include the limitations of claim 18, it is respectfully submitted that these claims are also allowable.

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**CONCLUSION**

In view of the above remarks, it is respectfully submitted that all the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

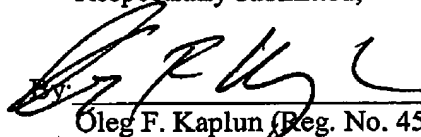
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Respectfully submitted,

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